



DAC/IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Marshall MILLER et al.

Application No.: 10/733,647

Confirmation No.: 1634

Filed: December 12, 2003

For: BLOW CYLINDER WITH FLUID
CUSHION

Art Unit: 3745

Examiner: Not Yet Assigned

Attorney Docket No.: 29953-187825

Customer No:

26694

PATENT TRADEMARK OFFICE

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R.

§ 1.47(a)

Mail Stop Petition
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

Dear Madam/Sir:

On May 18, 2004 applicants filed a petition for filing an oath or declaration when an inventor cannot be reached under 37 C.F.R. 1.47(a), based on the fact that one applicant/ inventor, Mr. Marshall MILLER, was on active military duty in Iraq, and included a copy of Marshall Miller's call up orders. On August 16, 2004 we received a decision from the Office of Petitions refusing status under 37 CFR 1.47(a), which indicated that despite Marshall Miller's being on duty in Iraq, diligent effort in attempting to reach him needed to be shown. We have since received the attached signed declaration

signature sheet from Marshall Miller. Because the declaration is submitted with this letter, we understand that the above-captioned application is now complete, and examination can proceed. We outline our diligent and ultimately successful attempts to contact Marshall Miller in Iraq below.

On September 1, 2004, we learned from Marshall Miller's employer, Graham Packaging Company, L.P., that we could attempt to contact Marshall Miller's brother, Mr. Monty Miller. Thus, Monty Miller's address of 1302 County Line Road, Venus, Pennsylvania 16364 is the last known correspondence address for the previously non-signing inventor, Marshall Miller. On September 9, 2004, we spoke on the telephone with Ms. Fran Miller, Monty Miller's wife, and explained the need of Marshall Miller's signing the declaration to her. On September 10, 2004, we sent a paper copy of the application specification and drawings and the declaration form along with a cover letter (copy enclosed) to Monty Miller's address via Registered U.S. Mail with a Return Receipt requested, asking that this copy be forwarded to Marshall Miller in Iraq (copy of Return Receipt enclosed). The Return Receipt indicated that Monty Miller received the package on September 18, 2004. On September 21, 2004, we contacted Monty Miller by telephone, because we had not yet received the Return Receipt back. On September 22, 2004, Monty Miller left us a telephone message, providing an email address for Marshall Miller. On September 23, 2004, Monty Miller contacted us by telephone, and suggested that we attempt to contact Marshall Miller by email, and indicated that he, Monty Miller, would also forward the paper copies of the application and declaration form to Marshall

Miller in Iraq. On September 24, 2004, we sent Marshall Miller an email (copy enclosed), with the application specification and drawings and the declaration form attached, explaining the need for him to review the application and sign the declaration form and return the signed declaration form to us. On September 25, 2004, Marshall Miller sent an email reply to us, of which a copy is enclosed. Ms. Jodi Yingling, a Legal Services Administrator with Graham Packing Company, L.P., sent a reply to Marshall Miller on September 27, 2004 (copy enclosed).

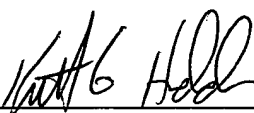
On October 15, 2004, we received a letter from Marshall Miller with the signature sheet of the declaration, of which a copy is enclosed. The signature sheet included both Marshall Miller's and the co-inventor's, Bernie Klingenmaier's, signatures. Also included, for completeness, is a copy of the first page of the declaration form sent to Marshall Miller with our email of September 24, 2004. The return address on the envelope of the letter (copy enclosed) was Marshall Miller's unit address in Iraq, although the letter was postmarked at Lancaster, Pennsylvania.

Applicants submit that, with the submission of this signed declaration, the above-captioned application for patent is now complete and the refusal of status under 37 C.F.R. 1.47(a) is moot. We therefore respectfully request that the application be forwarded to the examining group for consideration on the merits. Applicants submit that the facts set forth herein demonstrate a diligent effort to reach the previously non-signing inventor, Marshall Miller. Thus, in the event the papers submitted herewith do not fully satisfy the

requirement for a declaration signed by the inventors, applicants request that the petition under 37 C.F.R. 1.47(a) be granted. We understand that no fee is required; however, if a fee is required, please charge the sum due to our Deposit Account No. 22-0261.

Respectfully submitted,

Date: October 18, 2004

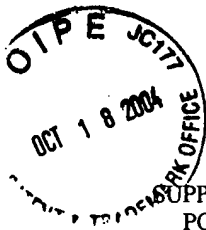


Keith G. Haddaway
Registration No. 46,180
VENABLE
P.O. Box 34385
Washington, DC 20043-9998
Telephone: (202) 344-4000
Direct Dial: (202) 344-8009
Fax: (202) 344-8300

Enclosures:

Copy of signed declaration with envelope
Copy of Return Receipt
Copy of email correspondence
Copy of letter of September 10, 2004

DOCS1DC2/589719



SUPPLEMENTAL DECLARATION FOR UNITED STATES PATENT APPLICATION,
POWER OF ATTORNEY, DESIGNATION OF CORRESPONDENCE ADDRESS

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and that I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

— BLOW CYLINDER WITH FLUID CUSHION —

the specification of which is filed on December 12, 2003, as Application Serial No. 10/733,647, Confirmation No. 1634.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States Provisional Application listed below:

- NONE -

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s), or §365(c) of any PCT International application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

- NONE-

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent, utility model, design or inventor's certificate listed below and have also identified below any foreign application(s) for patent, utility model, design or inventor's certificate having a filing date before that of the application(s) on which priority is claimed:

- NONE-

I hereby appoint the registered attorneys of VENABLE associated with the following customer number to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

26694

PATENT TRADEMARK OFFICE

VENABLE is located at 575 7th Street, N.W., Washington, D.C. 20004, Telephone: (202) 344-4000, Telefax: (202) 344-8300. Address all correspondence to VENABLE, Post Office Box 34385, Washington, D.C. 20043-9998.

The undersigned hereby authorizes the U.S. attorneys and agents named herein to accept and follow instructions from the undersigned's assignee, if any, and/or, if the undersigned is not a resident of the United States, the undersigned's domestic attorney, patent attorney or patent agent, as to any action to be taken in the Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and the undersigned. In the event of a change in the person(s) from whom instructions may be taken, the U.S. attorneys or agents named herein will be so notified by the undersigned.

SUPPLEMENTAL DECLARATION FOR UNITED STATES PATENT APPLICATION,
POWER OF ATTORNEY, DESIGNATION OF CORRESPONDENCE ADDRESS

Title: BLOW CYLINDER WITH FLUID CUSHION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

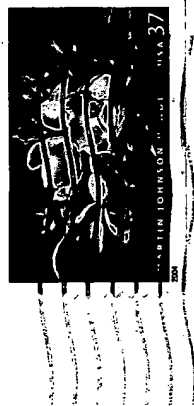
Signature: Marshall M. Miller
First Joint Inventor: Marshall MILLER
Citizenship: U.S.A.
Residence and Post Office Address: c/o Monty Miller
1302 County Line Road
Venus, PA 16364

Date: 9 28 04

Signature: Bernie Klingenmaier
Second Joint Inventor: Bernie KLINGENMAIER
Citizenship: U.S.A.
Residence and Post Office Address: 3120 Skylight Dr. West
York, PA 17402

Date: 10-11-04

Spc Marshall M. Miller
A Co 458th Combat Eng Bn
Camp Liberty, Iraq
APO AE 09344



Keith G. Haddaway
Venable LLP
575 7th Street N. West
Washington, DC 20004-1601

2000441607 07 Attn: Venable Ref: 29953187825

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Marshall Miller
c/o Monty Miller
1302 County Line Road
Venus, PA 16364

2. Article Number
(Transfer from service label)

PS Form 3811, April 2001

COMPLETE THIS SECTION ON DELIVERY**A. Signature***X Monty Miller*

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)*MONTY MILLER***C. Date of Delivery***9-18-04*

- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

- ☐ Certified Mail ☐ Express Mail
☒ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)☒ Yes

Domestic Return Receipt

102595-02-M-1540

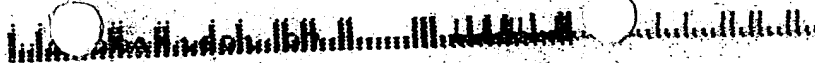
UNITED STATES POSTAL SERVICE



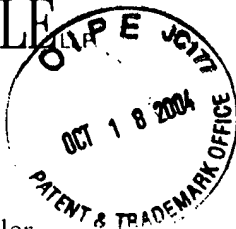
First-Class Mail
Postage & Fees Paid
USPS
Permit No. 6-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Keith Haddaway, Esq.
Venable LLP
575 7th Street, N.W.
Washington, D.C. 20004-1601



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Washington, DC 20004-1601

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Facsimile 202-344-8300

www.venable.com

(202) 344-8009

kghaddaway@venable.com

September 10, 2004

VIA REGISTERED U.S. MAIL

Marshall Miller
c/o Monty Miller
1302 County Line Road
Venus, PA 16364

Re: U.S. Patent Application For:
"BLOW CYLINDER WITH FLUID CUSHION"
Inventors: Marshall MILLER and Bernie KLINGENMAIER
U.S. Application No.: 10/733,647
Our Reference: 29953-187825
Graham Reference: GRM268USA

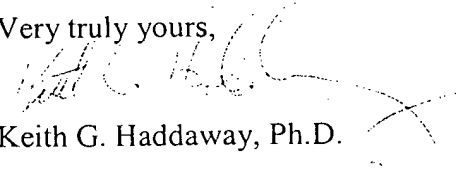
Dear Marshall:

We filed a new U.S. Patent Application on December 12, 2003 for the above-captioned development; copies of the documents as filed are enclosed. Generally, each inventor must sign a declaration stating that he has reviewed an application. Because we understood that you were serving in Iraq, we had Bernie Klingenmaier sign on your behalf and submitted a Petition for Filing When an Inventor Cannot be Reached under rule 37 C.F.R. §1.47(a). The U.S. Patent and Trademark Office has rejected the petition, stating that we must take positive action to attempt to reach you.

If you receive this letter with the enclosed documents, please review the application as filed, read the enclosed declaration form, sign the declaration form in your signature block as appropriate, and return the declaration form to us by October 6, 2004. We will then forward the document to Bernie Klingenmaier for his signature. If we do not receive the signed declaration from you by October 6, 2004, we will proceed with filing another Petition for Filing When an Inventor Cannot be Reached, detailing our attempt to contact you.

We look forward to receiving the signed and dated declaration ~~and assignment~~. Our thoughts are with you during your service in Iraq.

Very truly yours,


Keith G. Haddaway, Ph.D.

KGH/LHG
Enclosures

cc: Jodi Yingling

Haddaway, Keith G., Ph.D.

From: Yingling, Jodi [Jodi.Yingling@grahampackaging.com]
Sent: Monday, September 27, 2004 12:35 PM
To: Marshall Miller
Cc: Haddaway, Keith G., Ph.D.
Subject: RE: FW: Email to Marshall 29953-187825

Marshall,

Hope all is well with you. Your signature is all that is needed, so you may return those pages directly to Keith. If you can fax that would be great, if not, just place them in the mail.

Any questions, let me know.

Thanks.
Jodi

Jodi L. Yingling
Legal Services Administrator
Graham Packaging Company, L.P.
2401 Pleasant Valley Road
York, PA 17402
Tel. (717)849-8554
Fax (866)378-9836
jodi.yingling@grahampackaging.com

-----Original Message-----

From: Marshall Miller [mailto:marshallmmiller@hotmail.com]
Sent: Saturday, September 25, 2004 10:24 PM
To: KHaddaway@Venable.com
Cc: LHGenieser@Venable.com; Yingling, Jodi; Klingenmaier, Bernie
Subject: RE: FW: Email to Marshall 29953-187825

Folks I recieved your email, I was able to download and print the first two sections of the application there was an erro on the third section that wouldn't download, I have clean signature pages though - Is that all you

need ?

Do I return the signed pages to Bernie K. for him to include his signature and then forward to you ?

I will investigate a scanner or possible facimile machine on this end, I'm afraid I'll have to use regular return mail.

Let me know your thoughts please

Marshall

From: "Haddaway, Keith G., Ph.D." <KHaddaway@Venable.com>
To: <marshallmmiller@hotmail.com>
CC: "Genieser, Lars H." <LHGenieser@Venable.com>, "Yingling, Jodi" <Jodi.Yingling@grahampackaging.com>
Subject: FW: Email to Marshall 29953-187825
Date: Fri, 24 Sep 2004 16:39:33 -0400
MIME-Version: 1.0
Received: from bamim01.VENABLE.COM ([208.200.215.66]) by mc10-f34.hotmail.com with Microsoft SMTPSVC(5.0.2195.6824); Fri, 24 Sep 2004 13:39:37 -0700
Received: from vbndr01.venable.com (unverified) by bamim01.VENABLE.COM

(Content Technologies SMTPRS 4.3.12) with ESMTP id

<T6c3db98bddd0c8d742918@bamim01.VENABLE.COM>; Fri, 24 Sep 2004 16:40:38

-0400

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with SMTP (Microsoft Exchange Internet Mail Service Version 5.5.2653.13)

id MZ90A3DA; Fri, 24 Sep 2004 16:39:35 -0400

Received: from dcexc.venable.com ([172.29.132.60]) by vbsmt.venable.com with

Microsoft SMTPSVC (5.0.2195.6713); Fri, 24 Sep 2004 16:39:34 -0400

X-Message-Info: JGTyoYF78jEHjJx360i8+YDSEg8qKPPD

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X-MimeOLE: Produced By Microsoft Exchange V6.0.6249.0

Message-ID: <FC93475F23363B43AEF34C8E830673D6911959@dcexc.venable.com>

X-MS-Has-Attach: yes

X-MS-TNEF-Correlator:

Thread-Topic: Email to Marshall 29953-187825

Thread-Index: AcShzwetkQ64697NTToKD9Eh9eIPbNgAcIwHQA AHKQfAAC8m5oA==

Return-Path: KHaddaway@Venable.com

X-OriginalArrivalTime: 24 Sep 2004 20:39:34.0326 (UTC)

FILETIME=[99CAC560:01C4A276]

<<Picture (Metafile)>>

> September 10, 2004

>

>

>

> Marshall Miller

VIA

> EMAIL

> Iraq

>

> Re: U.S. Patent Application For:
"BLOW CYLINDER WITH FLUID CUSHION"
Inventors: Marshall MILLER and Bernie

KLINGENMAIER

Filed: December 12, 2003

U.S. Application No.: 10/733,647

Graham Reference: GRM268USA

Our Reference: 29953-187825

> Dear Marshall:

>

> We hope this finds you safe and well. As described in more detail > below, this message pertains to a patent application. If you are able > to respond to this message and return the documents requested, please > do so. However, if you are unable to respond or if responding would > require undue effort, we will take care of the situation for now and > you can take care of this matter upon your return. > > We filed a new U.S. Patent Application on December 12, 2003 for the > above-captioned matter; copies of the documents as filed are attached. > Generally, each inventor must sign a declaration stating that he has > reviewed an application. Because we understood that you were serving > in Iraq, we had Bernie Klingenmaier sign on your behalf and submitted > a petition in the U.S. Patent and Trademark Office (USPTO) indicating > that you could not be reached, according to normal USPTO procedure. > The USPTO has rejected the petition, stating that we must take > positive action to attempt to reach you. > > We had sent a package to your brother, Monty Miller, on September 10, > 2004 including the documents which are attached to this letter. Monty > called us on September 22, 2004 to provide your email address to which > we are sending this communication. If you receive this email with the > attached documents, please review the attached application as filed > with the attached figures, read the attached declaration form, sign > the declaration form in your signature block as appropriate, and > return the declaration form to us. You could return the signed > declaration form to us by facsimile. Our facsimile number is (202) > 344-8300; if using facsimile, please add a cover page indicating that > the transmission is for Keith Haddaway and pertains to Venable > Reference 29953-187825. We will then forward the document to Bernie > Klingenmaier for his signature and file the signed declaration in the > USPTO. We understand that Monty is also forwarding paper

copies of > the same documents attached to this email to you; if you receive this >
email transmission, you can ignore the contents of the package > forwarded by Monty. >
> If we do not receive the signed declaration from you, we will proceed > with filing a
request for reconsideration of the decision on the > Petition, detailing our attempts to
contact you. If you are unable to > return the signed declaration form to us, please do
not worry. We > expect that the USPTO would grant the request for reconsideration, >
based on our diligent attempts to contact you and the fact that you > are on active
military duty in Iraq. You could then take care of the > declaration when you return. >
> We regret having to trouble you with this matter when more critical > situations demand
your attention; our thoughts are with you during > your service in Iraq. > > Very truly
yours, >

Keith G. Haddaway, Ph.D.
kghaddaway@venable.com
Direct Dial (202) 344-8009

VENABLE LLP
www.venable.com
575 7th Street, NW
Washington, DC 20004-1601
(202) 344-4000/1-888-VENABLE
FAX (202) 344-8300

> .
>
> KGH/LHG
> Enclosures
>
> cc: Jodi Yingling
>
>
> <<GRM268spec.doc>> <<GRM268decl.doc>> <<GRM268figs.pdf>> > >

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information. If you believe you have received this message in error, please
notify the sender by reply transmission and delete the message without
copying or disclosing it.

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